

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/557,289
Applicant : JEWELL, JACK
Filed : APRIL 25, 2000
Title : CONDUCTIVE ELEMENT WITH LATERAL OXIDATION BARRIER

Art Unit : 2828
Examiner : DAVIE, JAMES W.

Atty Docket No. : PICO-0029-1

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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REQUEST FOR RECONSIDERATION

Sir:

The present Request for Reconsideration is in response to the Office Action of March 19, 2004, the period for response to which has been extended to August 19, 2004, by filing a petition for a two-month extension of time and paying the appropriate fee

Favorable reconsideration of this application is respectfully requested. Claims 57-77 are pending.

Claims 57-77 are rejected under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed. For convenience, in the discussion below, all citations are to U.S. Patent No. 5,719,891, of which the present application is a divisional application and, which, therefore, has the same originally filed specification as the present application.

The sole ground for rejecting claims 57-77 under 35 U.S.C. § 112, first paragraph, is set forth in paragraph 2 of the Office Action. However, contrary to what is stated in paragraph 2 of the Office Action, the written description does not explicitly reject a structure without an oxidation barrier. Page 9, lines 2-12, of the specification refers to an embodiment of the invention as shown in FIG. 1, which includes an oxidation barrier 18. However, FIG. 1 does not represent the sole embodiment of the invention. For example,

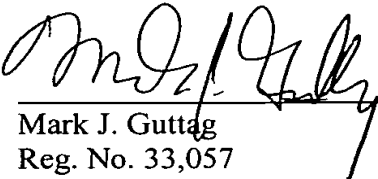
the VCSEL of FIG. 7 shows a VCSEL without an oxidation barrier. In a similar VCSEL shown in FIG. 6G, there is shown an oxidation barrier indicated by dashed horizontal lines between oxidized layers 175. However, no such dashed horizontal lines indicating an oxidation barrier are shown in the VCSEL of FIG. 7. If the VCSEL of FIG. 7 included an oxidation barrier, the region between the oxidized layers 204 would include such lines, and there would be a related description to that extent. Also, col. 9, lines 25-57, which describes the VCSEL of FIG. 7, describes the construction of the VCSEL in detail, but notably avoids any reference to a required oxidation barrier. Thus, the specification contains a clear written description that an oxidation barrier is not a necessary element in all embodiments.

The Applicant demonstrates the breadth of the invention, not the limitation thereof, by disclosing multiple embodiments. However, the Office Action purports to unduly limit the construction of the claims to one embodiment shown in the application, at the apparent exclusion of other represented embodiments. Applicant respectfully asserts that such a reading of the specification is improper and is based on a misunderstanding of the invention. Because the rejection of claims 57-77 under 35 U.S.C. § 112, first paragraph, is based on an incorrect appreciation of what is shown and described in the present application, the rejection of claims 57-77 under 35 U.S.C. § 112, first paragraph is improper and should be withdrawn.

Because there are no other rejections pending against claims 57-77, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Mark J. Gutttag at 703-591-2664, Ext. 2006.

Respectfully submitted,



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